



STATE OF INDIANA

ERIC J. HOLCOMB, Governor

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Fire Marshalls Office and the ATF. We are unable to release any information at this time due to the ongoing homicide investigation.

ANALYSIS

The public policy of the APRA states that "(p)roviding persons with information is an essential function of a representative government and an integral part of the routine duties of public officials and employees, whose duty it is to provide the information." Ind. Code § 5-14-3-1. The Flora Fire Department is a public agency for the purposes of the APRA. Ind. Code § 5-14-3-2(n). Accordingly, any person has the right to inspect and copy the Department's disclosable public records during regular business hours unless the records are protected from disclosure as confidential or otherwise exempt under the APRA. Ind. Code § 5-14-3-3(a). A public agency is required to make a response to a written request that has been mailed within seven (7) days after it is received. Ind. Code § 5-14-3-9(c). If an agency receives a written request and decides to deny the request, the denial must be in writing and contain both "a statement of the specific exemption or exemptions authorizing the withholding of all or part of the public record" and "the name and the title or position of the person responsible for the denial." Ind. Code § 5-14-3-9(d).

The Department's response provides that they have advised "on numerous occasions" that they have "no knowledge of details of this case," but the Department does not specifically say whether that means the Department has directly notified the Complainant herself that the Department does not have records responsive to her request. The Complainant alleges she never received a response from the Department for her May 18 requests, which is required under the APRA. I do not have any evidence from either party regarding any requests that may have been submitted by the Complainant prior to her May 18 requests.

Furthermore, the Department's response provides that the Department cannot release any information because of an "ongoing homicide investigation." This contradicts the Department's assertion that they have "no knowledge of details of this case." These are mutually exclusive reasons for denying a request and does not provide either the Complainant or me with a clear answer for why the Department cannot provide records responsive to the Complainant's request. If the Department is withholding records the Complainant requested because they are a part of an investigation, the Department should have provided the Complainant with a written denial that states the exemption(s) for withholding the records.

CONCLUSION

Based on the foregoing, it is the Opinion of the Public Access Counselor that the Flora Fire Department violated the Access to Public Records Act.



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A handwritten signature in black ink, appearing to read "LH Britt", is positioned above the printed name.

Public Access Counselor

Cc: Chief Adam Randle